

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK

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EMILY PENZO,

Case No. 19-cv-7478

Plaintiff,

COMPLAINT

vs.

JURY DEMAND

CONSOLIDATED EDISON COMPANY OF NEW
YORK, INC.,

Defendant.

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Plaintiff, by her below-signed attorneys, alleges as follows:

1. This is a complaint alleging violations of the Americans with Disabilities Act (“ADA”), the Family Medical Leave Act (“FMLA”), the New York State Human Rights Law (“NYSHRL”), and the New York City Human Rights Law (“NYCHRL”). Plaintiff, a breast cancer survivor, alleges unlawful discrimination and retaliation in violation of these statutes.

JURISDICTION

2. This Court has jurisdiction pursuant to 28 U.S.C. § 1331. Pendant jurisdiction is also invoked. Plaintiff has filed two complaints with the Equal Employment Opportunity Commission (“EEOC”), 520-2018-01727 and 520-2019-03316; Right to Sue notices were issued in each case and this filing is timely.

PARTIES

3. Plaintiff Emily Penzo is an employee of Defendant Consolidated Edison Company of New York, Inc., as that term is defined in the ADA, FMLA, NYSHRL, and NYCHRL. She resides in Bronx, New York.

4. Defendant Consolidated Edison Company of New York, Inc. (“Con Edison”) is an employer as defined in the ADA, FMLA, NYSHRL, and NYCHRL. It is headquartered at 4 Irving Place, New York, New York 10007.

FACTS

5. Plaintiff commenced employment with Con Edison in around 2010 in a managerial position.

6. In October 2014 she took a leave in order to address a breast cancer diagnosis, utilizing FMLA leave time. She returned in May 2015.

7. After her return, she took additional leave for chemotherapy treatments and breast reconstruction.

8. Subsequent to her return she suffered discrimination in that she was denied raises in 2016, 2017, and 2018.

9. In June 2018 Plaintiff filed her first complaint with the EEOC.

10. Subsequently, after a medication session conducted by the EEOC, Con Edison Corporate Security began in investigation of Plaintiff; that investigation became public knowledge, causing Plaintiff embarrassment.

11. In April 2019 Plaintiff filed a second EEOC complaint alleging retaliation.

12. In acting as aforescribed, Defendant acted willfully and in reckless disregard of Plaintiff’s rights.

AS AND FOR A FIRST CAUSE OF ACTION

13. By acting as aforescribed, Defendant violated Plaintiff’s rights under the ADA and its prohibition against discrimination and retaliation.

AS AND FOR A SECOND CAUSE OF ACTION

14. By acting as aforescribed, Defendant violated Plaintiff's rights under the FMLA and its prohibition against discrimination and retaliation.

AS AND FOR A THIRD CAUSE OF ACTION

15. By acting as aforescribed, Defendant violated Plaintiff's rights under the NYSHRL and its prohibition against discrimination and retaliation.

AS AND FOR A FOURTH CAUSE OF ACTION

16. By acting as aforescribed, Defendant violated Plaintiff's rights under the NYCHRL and its prohibition against discrimination and retaliation.

DAMAGES

17. As a proximate result of Defendant's unlawful actions:
- a. Plaintiff has lost wages and attendant benefits, in a sum exceeding \$50,000.
 - b. Plaintiff has suffered emotional distress, with attendant physical injury, to her damage, in the sum of \$500,000.
 - c. Plaintiff is entitled to an award of punitive damages.

PRAYER FOR RELIEF

WHEREFORE, Plaintiff prays that this Court enter judgment:

- a. enjoining all ongoing retaliatory actions;
- b. awarding Plaintiff all lost pay and benefits;
- c. awarding Plaintiff compensatory damages for emotional distress;
- d. awarding Plaintiff punitive damages; and
- e. awarding Plaintiff costs and attorneys' fees.

JURY DEMAND

Plaintiff demands a jury trial.

Dated: New York, New York
August 9, 2019

ADVOCATES FOR JUSTICE,
CHARTERED ATTORNEYS
Attorneys for Plaintiff

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